

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

MELVIN PARKER,

No. 2:23-cv-0503 KJN P

Plaintiff,

ORDER

JEFF LYNCH, et al.,

Defendants.

MELVIN PARKER,

No. 2:22-cv-2015 KJN P

Plaintiff,

ORDER

N. WEST, et al.,

Defendants.

Plaintiff is a state prisoner, proceeding pro se, with an action brought under 42 U.S.C. § 1983. On May 1, 2023, plaintiff filed a notice that defendant N. West had not yet filed a response to plaintiff's complaint. Parker v. Lynch, No. 2:23-cv-0503 KJN P (E.D. Cal.). However, plaintiff's claim against defendant West proceeds in Parker v. Lynch, No. 2:22-cv-2015 KJN (E.D. Cal.). The Clerk of the Court is directed to strike plaintiff's notice from case No. 2:23-cv-0503, and file it in case 2:22-cv-2015 KJN P, along with a copy of this order.

1 Plaintiff objects that defendant West has not responded and seeks entry of default as well
2 as summary judgment against defendant West. The court recently ordered service of process on
3 defendant West on April 24, 2023. Defendant West has not yet been served with process, so
4 entry of default is premature and inappropriate. Similarly, a request for summary judgment is
5 also premature and inappropriate given that defendant West has not yet been served and has not
6 appeared in the action.¹

7 Once defendant West is served with process, plaintiff will receive notice of such service
8 or waiver of service. Such notice will set forth the time constraints for defendant's response. A
9 clerk's entry of default is only appropriate once the time frame for defendant West to respond has
10 expired without a response.

11 Further, plaintiff is cautioned that as a pro se litigator, he is responsible to provide the
12 correct case numbers on his filings. However, in an effort to assist plaintiff in the future, the
13 Clerk of the Court is directed to change the case caption to Parker v. N. West, et al., No. 2:22-cv-
14 2015 KJN P, to further differentiate it from Case No. 2:23-cv-0503 KJN P.

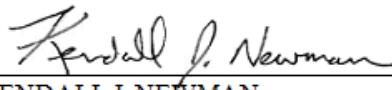
15 Accordingly, IT IS HEREBY ORDERED that:

16 1. The Clerk of the Court is directed to strike plaintiff's notice from case No. 2:23-cv-
17 0503, and file it in case 2:22-cv-2015 KJN P, along with a copy of this order.

18 2. Plaintiff's May 1, 2023 requests for default and summary judgment are denied without
19 prejudice.

20 3. The Clerk of the Court is directed to change the caption of case No. 2:22-cv-2015 KJN
21 P to Parker v. N. West, et al.

22 Dated: May 5, 2023

23 
24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE

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27 ¹ The court has not yet issued a discovery and scheduling order. Indeed, plaintiff should not seek
28 summary judgment until after discovery has closed. Fed. R. Civ. P. 56.